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EXAMINER

RIVERO, MINERVA

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/003,093	Applicant(s) OSTERMANN ET AL.	
	Examiner Minerva Rivero	Art Unit 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/02/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/02/2000</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 22-26 of this application. Regarding claims 22, 23, 24, 25 and 26: an option to modify a camera position using camera control tags within the text; presenting the sender with options to add accessories to the animated entity; presenting the sender with options to add accessories comprising glasses, earrings, hats, shirts, hair color, hair style, and facial hair; presenting the sender with a list of accessories including accessories provided by a multi-media message service provider and accessories added by the sender; and presenting the sender with a preview of the animated entity with the chosen accessory options, respectively, were not disclosed in provisional application 60/245521 .

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title: "System and method for sending multi-media messages using customizable background images" is not appropriate since a system is not being claimed.

2. The disclosure is objected to because of the following informalities: serial numbers of related applications are missing.

Appropriate correction is required.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter in claims 22 and 29 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 27 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rosenblatt et al (U.S. 2002/0007276).

Regarding claim 27, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient, the multi-media message including an animated entity (virtual representative) for delivering a message having text ([0008], Lines 3-8), providing the sender with options to choose an animated entity from a group of animated entities ([0008], Lines 3-8),

providing the sender with options to insert emoticons (emotion cues) in the text of the message ([0015], Lines 7-9),

providing the sender to modify an amplitude of emotions inserted in the text of the message ([0009], Lines 5-6),

and once the sender chooses emotions to add to the animated entity, if any, delivering the multi-media message to the recipient ([0036], Lines 1-5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys et al. (U.S. 2001/0050681) and further in view of Rosenblatt et al. (U.S. 2002/0007276).

Regarding claim 1, Edwards discloses receiving at least one image from the sender (Page 55, (*Composing New Messages*)), associating each image (media type) with a tag (Page 52, second column, 4th full paragraph) and presenting the sender with

options to insert the tag associated with the image into the sender text (Page 52, second column, 4th full paragraph).

Edwards does not explicitly disclose but Keys *et al.* do disclose delivering the multi-media message with the at least one image presented as background to the animated entity according to a position of the tag associated with the at least one image in the sender text ([0049], Lines 6-9).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Edwards with the further step of delivering the multi-media message with the at least one image presented as background to the animated entity according to a position of the tag associated with the at least one image as taught by Keys *et al.*, to enhance the recipient's comprehension of the multi-media message.

Moreover neither Edwards nor Keys *et al.* disclose having an animated entity audibly presenting speech from text created by the sender.

Rosenblatt *et al.*, however, disclose having an animated entity (virtual representative) audibly presenting speech from text created by the sender ([0008], Lines 3-8).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to supplement the teachings of Edwards and Keys *et al.* by having an animated audible entity presenting speech from text created by the sender as taught by Rosenblatt *et al.* so as to make it useful for handicapped users with a reading disability.

Regarding claims 3 and 4, Edwards discloses the one image is a static image and the one image is a video (static and dynamic media) (Page 49).

Regarding claim 5, Edwards, discloses associating each predefined image with a tag (Page 52, second column, 4th full paragraph) and presenting the sender with options to insert a tag associated with one of the group of predefined images into the sender text (Page 52, second column, 4th paragraph).

Edwards does not explicitly disclose but Keys *et al.* do disclose storing a group of predefined images (stored files) ([0023], Lines 8-10) and delivering the multi-media message with the image associated with the inserted tag presented as background to the animated entity according to a position of the tag within the sender text ([0049], Lines 6-9).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Edwards by storing a group of predefined images and delivering the multimedia message with the image associated with the inserted tag presented as background to the animated entity according to a position of the tag within the sender text as taught by Keys *et al.* to provide the user with a readily available selection of images that will aid in the customization of the multi-media message according to the user's preference and to enhance the recipient's comprehension of the multi-media message.

Moreover, the combined teachings of Edwards and Keys *et al.* do not disclose but Rosenblatt *et al.* do disclose having an animated entity (virtual representative) audibly presenting speech from text created by the sender ([0008], Lines 3-8).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to supplement the teachings of Edwards and Keys *et al.* by having an animated entity audibly presenting speech from text created by the sender as taught by Rosenblatt *et al.* so as to make it useful for handicapped users with a reading disability.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys *et al.* (U.S. 2001/0050681), further in view of Rosenblatt *et al.* (U.S. 2002/0007276), and further in view of Jennings (U.S. Patent 5,781,186).

Regarding claim 2, the combined teachings of Edwards, Keys *et al.* and Rosenblatt *et al.* do not explicitly disclose delivering the multi-media message further comprises presenting the at least one image as background when a word prior to the position of the tag associated with the at least one image is presented by the animated entity.

Jennings discloses delivering the multi-media message further comprises presenting the at least one image as background when a word prior to the position of the tag associated with the at least one image is presented by the animated entity (presentation) (Col 1, Lines 55-63; Col 4, Lines 60-61; Col 2, Lines 1-4).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Edwards, Keys *et al.* and Rosenblatt *et al.* and present the one image as background when a word prior to the position of the tag associated with the image is presented by the animated entity as taught by Jennings, to ensure that the message components are presented in the desired sequence and enhance the recipient's comprehension of the multi-media message.

9. Claims 6, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys *et al.* (U.S. 2001/0050681), further in view of Rosenblatt *et al.* (U.S. 2002/0007276), as applied to claim 5 above, and further in view of Mayle *et al.* (U.S. 6,542,936).

Regarding claim 6, Edwards discloses associating each at least one sender-created image with a sender-image tag (Page 52, second column, 4th full paragraph) and presenting the sender with an option to insert a sender-image tag associated with one of the at least one sender-created images into the sender text (Page 52, second column, 4th full paragraph).

Edwards, however, does not disclose but Mayle *et al.* do disclose receiving at least one sender-created image (graphic data) (Col 7, Lines 24-30).

It would have been further obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Edwards, Keys *et al.* and Rosenblatt *et al.* with the further step of receiving at least one sender-created image as taught by Mayle

et al. so as to allow the user to create a more personal multi-media message and enable customization of the multi-media message according to the user's preference.

Regarding claim 7, it recites a combination of the elements in claims 5 and 6, and therefore the same rejections apply.

Regarding claims 9 and 10, Edwards further discloses the predefined images are either static images or video images (static and dynamic media) (Page 49), and the sender-created images are either static images or video images (static and dynamic media) (Page 49).

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keys *et al.* in view of Rosenblatt *et al.*, further in view of Edwards, further in view of Mayle *et al.* (U.S. Patent 6,542,936), as applied to claim 7 above, and further in view of Jennings (U.S. Patent 5,781,186).

Regarding claim 8, the combined teachings of Edwards, Keys *et al.*, Rosenblatt *et al.*, and Mayle *et al.* do not explicitly disclose the predefined images or sender-created images are displayed as background to the animated entity as soon as a predetermined number of words prior to the position of the respective tag within the sender text begins to be delivered.

Jennings, however, discloses the predefined images or sender-created images are displayed as background to the animated entity as soon as a predetermined number of words prior to the position of the respective tag within the sender text begins to be delivered (presentation) (Col 1, Lines 55-63; Col 2, Lines 1-4).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to have the predefined images or sender-created images displayed as background to the animated entity as soon as a predetermined number of words prior to the position of the respective tag within the sender text begins to be delivered as taught by Jennings, to ensure that the message components are presented in the desired sequence and enhance the recipient's comprehension of the message.

11. Claims 11, 12, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Edwards (IEEE TRICOMM 91) and further in view of Keys *et al.* (U.S. 2001/0050681).

Regarding claim 11, Rosenblatt *et al.* disclose a method of customizing a multi-media message created by a sender for a recipient, the multi-media message having an animated entity (virtual representative) audibly presenting speech converted from text created by the sender ([0008], Lines 3-8) and presenting the sender with options to position the animated entity in any location on a display screen using animated entity

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position tags ([0034]), but do not explicitly disclose presenting the sender with options to insert tags into the sender text.

Edwards, however, teaches presenting the user with options to insert image tags into the sender text (Page 52, second column, 4th full paragraph).

It would have been obvious to one having ordinary skill in the art at the time of invention to present the user with the option to supplement the teachings of Rosenblatt *et al.* and insert the tag associated with the image into the sender text, as taught by Edwards, thus allowing the user to customize the message according to the user's preference.

Moreover, neither Rosenblatt *et al.* nor Edwards specifically teach delivering the multi-media message with the images associated with the inserted image tags presented as background to the animated entity according to a position of the respective tag within the sender text.

Keys *et al.*, however, disclose delivering the multi-media message with the images associated with the inserted image tags presented as background to the animated entity according to a position of the respective tag within the sender text ([0049], Lines 6-9).

It would have been further obvious to one ordinarily skilled in the art at the time of the invention to modify the combined teachings of Rosenblatt *et al.* and Edwards and present the image as background to the animated entity according to a position of the respective tag so as make the multi-media message more comprehensible to the recipient.

Regarding claim 12, Rosenblatt *et al.* do not explicitly disclose but Edwards does disclose the stored images are static and/or video images (static and dynamic media) (Page 49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the stored images being static and/or video images as taught by Edwards, so as to allow the user to customize the message according to user's preference.

Regarding claim 13, Rosenblatt *et al.* disclose the further step of presenting the sender with an option to remove the animated entity from the display screen (performance) using an animated entity remove tag and if the sender inserts the animated entity remove tag, delivering the multi-media message with the images associated with the inserted tag presented as background while removing the animated entity according to a position of the animated entity remove tag within the sender text ([0033]).

Regarding claim 14, it recites a combination of the elements in claims 11 and 12, and therefore the same rejections apply.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Edwards (IEEE TRICOMM 91), further

in view of Keys *et al.* (U.S. 2001/0050681) and further in view of Mayle *et al.* (U.S. Patent 6,542,936).

Regarding claim 15, the combined teachings of Rosenblatt *et al.*, Edwards and Keys *et al.* do not explicitly disclose the stored video segments are non-sender-created and optionally sender-created.

Mayle *et al.*, however, disclose the stored video segments are non-sender-created and optionally sender-created (Col. 7, Lines 24-34).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.*, Edwards and Keys *et al.* by having the stored video segments being non-sender-created and optionally sender-created as taught by Mayle *et al.* to allow the user to create a more personal multi-media message and allow customization of the multi-media message according to user's preference.

13. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landress *et al.* (U.S. 2003/0191816) in view of Rosenblatt *et al.* (U.S. 2002/0007276).

Regarding claim 16, Landress *et al.* disclose a method of sending a multi-media message from a sender to a recipient, including an animated entity for delivering a message having text, the method comprising providing the sender with a group of customizable multi-media message templates, each template of the groups of templates

including predefined parameters comprising a predefined text message, a predefined animated entity, a predefined background, predefined background music and if the user chooses a customizable multi-media message template and presenting the sender with options to change any of the predefined parameters ([0108], Lines 8-11; [0018]; [0092], Lines 5-7; [0093], Lines 5-8; [0127], Lines 14-16; [0007], Lines 14-16) but fail to explicitly disclose a predefined set of emoticons within the text of the message.

Rosenblatt *et al.*, however, disclose a predefined set of emoticons (emotion cues) within the text message ([0019], Lines 5-10).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Landress *et al.* with a predefined set of emoticons within the text of the message as taught by Rosenblatt *et al.* to enable the user to express their emotions in the message and allow customization of the multi-media message according to the user's preference.

Regarding claim 17, Landress *et al.* further disclose once the sender customizes the multi-media message template, if at all, delivering the multi-media message to the recipient ([0003]).

Regarding claim 18, Landress *et al.* further disclose presenting the sender with options to change any of the predefined parameters further comprises presenting the user with an option to add the name of the recipient of the multi-media message ([0069], Lines 1-4; [0084], Lines 1-6; [0108], Lines 5-8).

Regarding claim 19, Landress *et al.* further disclose the further step of presenting the user with an option to choose from a list of predefined and/or sender-added options for each of the template parameters for customizing the multi-media message ([0071]).

Regarding claim 20, Landress *et al.* do not disclose but Rosenblatt *et al.* do disclose presenting the user with an option to choose at least one position from which the animated entity will deliver the message ([0034]).

It would have been obvious to supplement the teachings of Landress *et al.* by presenting the user with an option to choose at least one position from which the animated entity will deliver the message as taught by Rosenblatt *et al.* to allow the user to organize a particular multi-media message as appropriate and enhance the recipient's comprehension of the message.

Regarding claim 21, Landress *et al.* do not disclose but Rosenblatt *et al.* do disclose presenting the user with an option to choose at least one position from which the animated entity will deliver the message further comprises presenting the user with an option to control animated entity entrance and departure features ([0034]).

It would have been obvious to supplement the teachings of Landress *et al.* by presenting the user with a further option to control animated entity entrance and departure features as taught by Rosenblatt *et al.* to allow the user to organize a particular multi-media message as appropriate.

14. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landress *et al.* (U.S. 2003/0191816) in view of Rosenblatt *et al.* (U.S. 2002/0007276) and further in view of Orbanes *et al.* (U.S. 2002/0109680).

Regarding claim 22, the combined teachings of Landress *et al.* and Rosenblatt *et al.* do not disclose but Orbanes *et al.* do disclose presenting the user with an option to modify a camera position using camera control tags within the text ([0052], Lines 3-5; [0161], Lines 21-24; [0163], Lines 1-3).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Landress *et al.* and Rosenblatt *et al.* with presenting the user with an option to modify a camera position using camera control tags within the text as taught by Orbanes *et al.* to allow the user to customize the multi-media message according to the user's preference and enhance the recipient's comprehension of the message.

15. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park *et al.* (U.S. 2001/0050689) in view of Rosenblatt *et al.* (US. 2002/0007276).

Regarding claim 23, Park *et al.* disclose presenting the sender with options to add accessories to the animated entity ([0061], Lines 6-9); and once the sender chooses accessories to add to the animated entity, if any, delivering the multi-media message to the recipient ([0060], Lines 13-15).

Park *et al.* do not disclose but Rosenblatt *et al.* do disclose a method of sending a multi-media message to a recipient, the multi-media message including an animated entity for delivering a message having text ([0008], Lines 3-8) and providing the sender with options to choose an animated entity from a group of animated entities ([0008], Lines 3-8).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Park *et al.* with the multi-media message including an animated entity for delivering a message having text and providing the sender with options to choose an animated entity from a group of animated entities as taught by Rosenblatt *et al.* to make it useful for handicapped users with a reading disability and to allow the senders to choose an animated entity that suits their preferences.

Regarding claim 25, Park *et al.* further disclose presenting the sender with options to add accessories to the animated entity further comprises presenting the sender with a list of accessories, the list of accessories provided by a multi-media message service provider and accessories added by the sender ([0033], Lines 1-7; [0059], Lines 21-24).

16. Claims 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park *et al.* (U.S. 2001/0050689) in view of Rosenblatt *et al.* (US. 2002/0007276) and further in view of Cote (U.S. 2004/0091154).

Regarding claim 24, Park *et al.* further disclose presenting the sender with options to add accessories to the animated entity further comprises presenting the sender with options to add accessories comprising glasses, hats, shirts, hair color and hair style ([0037], Lines 7-10; [0061], Lines 6-9; [0050], Lines 1-8; [0033], Lines 7-11; [0032], Lines 1-8).

Park *et al.* do not explicitly disclose but Cote does disclose presenting the sender with options to add accessories comprising earrings and facial hair (mustache, beard) ([0030], Lines 3-5 and 7-10).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Park *et al.* and present the sender with options to add accessories comprising ear rings and facial hair as taught by Cote to allow the user to customize the animated entity in a more realistic manner.

Regarding claim 26, Park *et al.* further disclose presenting the sender with a preview of the animated entity with the chosen accessory options ([0052], Lines 5-8; Fig. 13, element 72).

17. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (US. 2002/0007276), as applied to claim 27 above, in view of Skelly (U.S. Patent 6,064,383).

Regarding claim 28, Rosenblatt *et al.* do not explicitly disclose but Skelly does disclose, if the sender modifies the amplitude of the emoticons inserted in the text, changing the appearance of the modified emoticons in the text of the message to reflect the change in amplitude for each modified inserted emoticon (intensity of the emotion to be reflected in the appearance of the character) (Col. 2, Lines 43-45).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* by changing the appearance of the modified emoticons in the text of the message to reflect the change in amplitude for each modified inserted emoticon as taught by Skelly to allow the user to more accurately convey emotions and enhance the recipient's comprehension of the message.

18. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (US. 2002/0007276), in view of Skelly (U.S. Patent 6,064,383), as applied to claim 28 above, and further in view of Mizokawa (U.S. Patent 6,230,111).

Regarding claim 29, the combined teachings of Rosenblatt *et al.* and Skelly do not explicitly disclose but Mizokawa does disclose changing the modified emoticon from a black on white background to black on colored background (background color of the “face”) (Col. 10, Lines 42-45).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* and Skelly with changing the modified emoticon from a black on white background to black on colored background as taught by Mizokawa to emphasize the particular emotion being represented and thus enhance the recipient’s comprehension of the message.

Regarding claim 30, the combined teachings of Rosenblatt *et al.*, Skelly and Mizokawa disclose the elements of claim 29 above, and Skelly further discloses the appearance of the modified emoticons relates to an intensity of the modified amplitude (Col. 2, Lines 43-45).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the aforementioned teachings of Rosenblatt *et al.*, Skelly and Mizokawa with the appearance of the modified emoticons relates to an intensity of the modified amplitude as further taught by Skelly to provide the sender with the capability to more accurately describe an emotion in the multi-media message and enhance the recipient’s comprehension of the message.

Conclusion

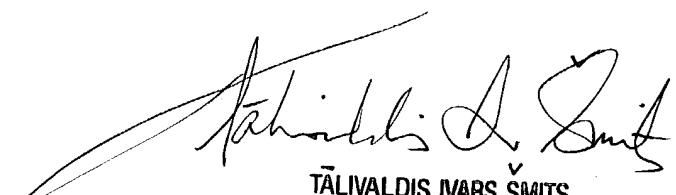
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dockter *et al.*, U.S. Patent 5,420,801.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minerva Rivero whose telephone number is (703) 605-4377. The examiner can normally be reached on Monday-Friday 8:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (703) 305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR 9/22/2004



TĀIVALDIS IVARS ŠMITS
PRIMARY EXAMINER